

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.: 14-20804

Hon. John Corbett O'Meara

KAI XU,

Defendant.

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**STIPULATION AND ORDER TO
ADJOURN TRIAL DATE**

IT IS STIPULATED AND AGREED, by the above parties, through their respective counsel, that there is good cause to adjourn the trial in this matter from April 13, 2015 to June 16, 2015.

IT IS FURTHER STIPULATED AND AGREED that the time period from April 13, 2015 to June 16, 2015 shall be deemed excludable delay under the provisions of the Speedy Trial Act, 18 U.S.C. § 3161, in consideration of other proceedings concerning the defendant under Section 3161(h)(1), specifically, that the parties are actively engaged in plea negotiations, and Section 3161(h)(7)(A), that the ends of justice served by continuing the plea cut-off date and trial outweigh the best interests of the public and defendant in a speedy trial.

IT IS FURTHER STIPULATED AND AGREED that an ends of justice continuance is appropriate because the parties are actively engaged in plea negotiations. A continuance of the plea cut-off date and trial is necessary to allow defense counsel and the government additional time for the facilitation of plea negotiations, which, under the Speedy Trial Act, are “other proceedings concerning

the defendant,” 18 U.S.C. § 3161(h)(1); *see United States v. Dunbar*, 357 F.3d 582, 593 (6th Cir. 2004); *United States v. Bowers*, 834 F.2d 607, 609-610 (6th Cir. 1987). Furthermore, the ends of justice served by continuing the trial outweigh the best interests of the public and defendant in a speedy trial.

The parties stipulate and agree that the stipulation and any order resulting therefore shall not affect any previous order of pretrial detention or pretrial release. Accordingly, the parties request that under the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(1) and (h)(7)(A), the period of delay, as a result of this continuance, shall be excluded in computing the time within which the trial must commence.

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ORDER ADJOURNING TRIAL DATE

This matter coming before the Court on the stipulation of the parties;

IT IS HEREBY ORDERED that good cause exists to adjourn trial from April 27, 2015 to June 16, 2015;

IT IS FURTHER ORDERED that the period from April 27, 2015 to June 16, 2015 shall be excluded from computing the time within which a trial must begin as "delay resulting from other proceedings concerning the defendant," 18 U.S.C. § 3161(h)(1), and because the ends of justice served by this delay outweigh the best interest of the public and the defendant in a speedy trial, 18 U.S.C. § 3161(h)(7).

IT IS FURTHER ORDERED that a continuance of the trial date is necessary to allow defense counsel and the government additional time for the facilitation of plea negotiations which, under the Speedy Trial Act, are "other proceedings concerning the defendant," 18 U.S.C. § 3161(h)(1); *see United States v. Dunbar*, 357 F.3d 582, 593 (6th Cir. 2004), *vacated on other grounds*

(*Booker*), 543 U.S. 1099 (2005); *United States v. Bowers*, 834 F.2d 607, 609-10 (6th Cir. 1987) (per curiam). Furthermore, the ends of justice served by continuing the trial date outweigh the best interests of the public and Defendant in a speedy trial.

This order shall not affect any previous order of pretrial detention or pretrial release. Accordingly, the Court shall find that, under the Speedy Trial Act, Title 18, United States Code, Sections 3161(h)(1) and (h)(7)(A), the period of delay, as a result of the continuance, shall be excluded in computing the time within which trial must be held.

Date: April 20, 2015

s/John Corbett O'Meara

United States District Judge